

## **REMARKS**

Claims 1-5 and 7-30 stand preliminarily rejected. Claims 12, 24 and 25 have been indicated as allowable if rewritten to overcome the §112 objections. Claims 6 and 9 have been cancelled and claims 31 and 32 are new. Reconsideration of the application is respectfully requested.

### **Drawings**

FIG. 1A has been amended to remove a duplicate reference number 84 and to clarify two lead lines 54 and 56. Replacement drawing sheets are submitted to the Official Draftsman, with a copy herewith. The objection to the phrase “vertical support” as not shown is not understood. Applicant is unaware of any use of the phrase “vertical support.” It is believed all the drawing objections have been addressed.

### **Rejections Under §112**

Claims 4, 11, 12, 14, 18-26, 29 and 30 stand preliminarily rejected under §112. Applicant has amended claims 4, 11, 12, 14, 18, 29 and 30 to clarify certain antecedent basis issues and claim dependencies.

With regard to claim 23, the Examiner asks, “is Applicant claiming (129), if so, it is unclear how a spring biasing a wheel and brace to contact the road biases the assembly to raise?” Applicant respectfully submits that the Examiner may have misunderstood the claim. Applied to the example of Fig. 3, claim 23 recites the bell crank 150 with a link 160 to a pattern wheel 132. The Examiner’s question implies that the pattern wheel 132 may have been confused with the gauge wheel 130. Spring 129 only biases gauge wheel 130 and does not contact or apply force to pattern wheel 132. Applicant submits that the claim is sufficiently clear.

Applicant respectfully submits that the 112 objections have been resolved and requests withdrawal of the rejection.

### **Allowed Claims**

Applicant thanks the Examiner for the indication that claims 12, 24, and 25 include allowable subject matter and would be allowable if amended to overcome the rejections under §112.

### **Rejection Under §102(b) In View Of Thomas**

Claims 18-20 and 27-30 stand preliminarily rejected under Thomas et al. (5,957,620), applied in view of its parent application (Thomas 5,607,255) under §102(b). Applicant submits that claims 18-20 and 27-30, as amended, are not taught or suggested by Thomas '620 or '255 and requests withdrawal of the rejection.

For example, independent claim 18 provides a surface following portion (a surface mounting portion in claim 27) intended to move at a uniform height. Claims 18 and 27 require a grinding assembly which is raised and lowered *relative to* the surface following portion. In contrast, Thomas '255 shows an eccentric or irregular wheel (referenced by the Examiner as 112, 114 or 170) which is attached to a frame and which raises and lower the entire frame *with and including* the grinding assembly. In Thomas the grinding assembly and surface following portion do not raise and lower relative to each other. Thomas does not teach or suggest the present application where the surface following portion moves at a uniform height along a surface to be ground.

The Office Action may be arguing that the pivot points or axles of the rear wheels (74 or 136) in Thomas are not raised and lowered. Applicant respectfully submits that the limited pieces of rear wheel axles or pivot points are different from a surface following portion as

claimed. However, for clarity, Applicant has amended claims 18 and 27 to clarify that the surface following portion has front and rear ground support elements, and that the grinding assembly is raised and lowered relative to the surface following portion and the front and rear ground support elements. Applicant respectfully requests withdrawal of the Thomas rejection for claims 18 and 27 and their dependent claims.

**Rejection Under §102(e) In View Of Dickson**

Claims 1-11, 13-19 and 21-23 stand preliminarily rejected under Dickson (6,402,252) under §102(e). Applicant submits that claims 1-11, 13-19 and 21-23, as amended, are not taught or suggested by Dickson and requests withdrawal of the rejection.

For example, independent claim 1 includes, “a displacement wheel mounted to said frame and mechanically linked to said mechanism.” The Examiner references Dickson wheel 100 as a displacement wheel. However, Dickson does not teach or suggest a mechanical link between a displacement wheel and a raising and lowering mechanism. In contrast, Dickson relies on a logic control circuit 108, which operates in a different manner, requires a separate power supply and is subject to electrical disruption or failure.

As another example, claims 11 and 22 recite, “an activation rod” used as a link. Dickson does not teach or suggest an activation rod link.

With respect to claim 18, the Office Action indicates that “Dickson meets the limitations” and refers to one element, “gauge wheel, pattern wheel (106)”, apparently arguing that the gauge wheel and pattern wheel are a joint element. Applicant respectfully submits that this is a misunderstanding of the claim. The gauge wheel and pattern wheel, as claimed, are separate. Claim 18 has been amended to clarify that the pattern wheel is offset from and driven by the gauge wheel. Dickson does not teach or suggest a separate, offset pattern wheel. This

distinction is further illustrated with a comparison of claim 18 to dependent claim 20, where the pattern wheel is driven by a sprocket chain driven by the gauge wheel.

The clarification that the pattern wheel is offset from the gauge wheel also illustrates how Dickson does not teach or suggest claims 21-23. Dickson does not teach or suggest a bell crank linked to a pattern wheel with an actuation rod. Applicant respectfully requests withdrawal of the Dickson rejections for independent claims 1 and 18 and their dependent claims.

**Rejection Under §103 Thomas or Dickson in view of Kennedy**

Claim 26 stands preliminarily rejected under Thomas or Dickson in view of Kennedy (4,463,989) under §103. Applicant submits that claim 26, is dependent on amended claim 18, and, with the amendments to claim 18, for at least that reason claim 26 is not taught or suggested by Thomas or Dickson in view of Kennedy. Applicant requests withdrawal of the rejection.

Claims 31 and 32 have been added and Applicant submits that they are also allowable.

Applicant respectfully requests further examination and the issuance of a timely Notice of Allowability for the pending claims. If the Examiner believes that there are any matters that can be resolved by a telephonic interview, the undersigned would welcome said call.

Respectfully submitted:



Charles J. Meyer, Reg. No. 41,966  
Woodard, Emhardt, Moriarty,  
McNett & Henry, LLP  
Bank One Center Tower  
111 Monument Circle, Suite 3700  
Indianapolis, Indiana 46204-5137  
(317) 634-3456